technologies within the same binder and within adjacent binders. It is up to the service providers to direct the development of new technologies that will drive the equipment manufactures to provide electronics that not only meet our service requirements but also do not adversely affect the current performance of the network.

In addition, MCI WorldCom believes there are two important considerations to help the Commission manage these potential challenges--standards development and technology deployment guidelines.[100] It is also exceedingly important that there be industry standards. The evolution of these standards as technologies develop must be carefully crafted so as not to stifle innovation. We note that T1E1.4 (ANSI) DSL Working Group has already recognized the need for national standards by adoption of a resolution proposing the development of an ANSI Standard to address spectral compatibility between different technologies.[101] The standardization process for DSL has been supported, witnessed, and approved by the ILECs. MCI will deploy DSL technologies that have been the subject of the standards process and have the full weight of industry approval. In some instances, the ILECs have already studied and/or approved these technologies for their own networks.

It is imperative that standards bodies responsible for developing new technology

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[100] MCI WorldCom reiterates its belief that the Commission should establish a third party administrator to address these issues.

[101] T1E1.4 DSL Working Group accredited by the American National Standards Institute (ANSI) has approved the revised Issue 2 T1.413 ADSL specification to go forward to T1 Committee for letter ballot.

specifications meet spectral compatibility requirements for existing standardized technologies or, in essence, provide "backward spectral compatibility." So, for example, the development of more new technologies will necessitate more stringent spectral requirements for those technologies so that the new are compatible with the old. We also foresee spectrum management issues becoming less burdensome with the refinement and maturity of existing technologies and its compatibility will track the chronology for development of newer technologies. For instance, ISDN (BRI) must now be spectrally compatible with DDS, T1 and POTS; ADSL must be spectrally compatible with HDSL, ISDN, DDS, T1 and POTS and VDSL must be spectrally compatible with HDSL2, ADSL, HDSL, ISDN, DDS, T1 and POTS.

MCI WorldCom recognizes that the some ILECs, CLECs and ISPs may opt to deploy and support non-standard technologies or configurations in their own network. To that end, service providers that are using non-standard technology should either be migrated to standard technologies or prohibited from deploying non-standard technologies until deployment guidelines are in effect. They should then be given the opportunity to demonstrate that the technology they are employing has fewer adverse repercussions on the network than standard technologies developed under the guidelines. In addition, new technologies that meet the guidelines should not be required to be backward compatible with non-standard technologies. It would be patently unfair to require parties to incur the costs and potential delays associated with

ensuring that their equipment and facilities are compatible with older, proprietary equipment.[102] This will eliminate the necessity for grandfathering technologies and will allow for robust technological investment and innovation.

In order to thrive, the industry must have the benefit of technology deployment guidelines. In those instances where technology standardization obstacles are exceedingly complex, the industry, in conjunction with this Commission (and, if the idea is adopted, its third party administrator), must define standard deployment configurations to address the new technologies. The guidelines must also be used to develop a list of combinations of the different DSL technologies allowed in copper cables and binder groups. As many will recall, the old T-span (T1) technology was implemented in this fashion. Because of its spectral characteristics, it was necessary to place T1 technology in a dedicated binder group, which meant that these carriers were isolated from the other services in the cable, thus not allowed to have any major spectral impact on other services.

The optimal solution, if it can be achieved, would most likely be the harmonization of technology development/standardization and technology deployment. A balance must be struck between the two approaches. Because technology standardization is the a hurdle of product development, too many restrictions during this process will result in delayed deployment and excessive costs for a product. If the standardization process is too lenient then the deployment

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[102]All network interfaces must also be publicly disclosed.

configurations will be too complex, limited in numbers, or simply technically infeasible.

The Commission asks parties to address how network interference may be detected that is extreme enough to warrant the prohibition of a particular service, technology or piece of equipment. By that we believe the Commission is asking the criteria that can be used to determine when a party may insist that these facilities or services not be used because of the interference caused to an entity's network.

MCI WorldCom contends that with proper implementation of the standardization and deployment guidelines discussed above, concerns about interference and incompatibility of equipment will largely be eliminated. However, to the extent that equipment or network operational requirements are necessary to address interference issues, we believe the Commission may look generally to factors such as frequency use, power levels, modulation techniques and line coding. In keeping with this approach, resolution/restitution of standard technologies would be based on engineering rules set forth by the deployment guidelines. As long as these guidelines were comprehensive and detailed, any trouble could be readily detected and isolated with appropriate testing or copper configuration information.

D. The Definition of the Local Loop

The Commission's current definition of the loop is insufficient to ensure that CLECs will have access to the loop functionality they need to offer advanced services, such as DSL-based services. Additionally, the Commission correctly observes that more and more of the nation's loop plant operates through digital loop carrier (DLC) systems, and the current definition of the

loop does not adequately account for this technology. In the absence of national rules governing the treatment of DLC loops, ILECs have successfully prevented competitors from obtaining access to DLC loops at any technically feasible point. Moreover, because the DSLAM, a critical component necessary to provide DSL service, must be placed where the copper terminates at the remote terminal, access to the remote terminal has become essential to the competitive deployment of advanced services. In sum, it is time for the Commission to require subloop unbundling, and make clear that CLECs are entitled to access to the loop at a subloop level, including access to the remote terminal.

The key to the development of competitive service through leased network elements is flexibility. Different competitors with different products in different segments of the market will want access to the existing ILEC network in different places. That is why Congress commanded that the ILECs provide access to their networks "at any technically feasible point."

In particular, the following loop configurations should be made available as network elements:

1. Voice Grade Loops

- The "traditional" voice grade loop, from the NID to the point at the central office where the loop connects to the switch. If the loop passes through a remote terminal, this loop element would include the copper to the remote terminal, the remote terminal and any concentration or other electronics in use, and the fiber or copper from the remote terminal to the central office, and termination in the central office and appropriate cross-

connections to other intraoffice facilities or equipment .

- The various subloop elements: the copper connection between the customer premises and the remote terminal (including the NID and cross-connections), the connection between the remote terminal and the central office, and the electronic functionality contained in the remote terminal and/or central office (and cross-connections). Access to the functionality of the remote terminal means, at a minimum, that CLECs should be able to collocate their own equipment at the terminal when technically feasible, or install their own hardware or software without the need to collocate. Because frequently there will not be sufficient space to collocate at a remote terminal, subloop unbundling also must mean that a CLEC can share on an unbundled basis ILEC equipment already installed at the remote. Multiple switch hosting is possible in so-called "next generation" digital loop carriers, and it is also possible to groom traffic off of a DLC in other ways, depending upon the type of DLC deployed. ILECs should be required to unbundle their DLCs to the maximum extent technically possible given the capabilities of their remote terminals.

2. xDSL Capable Loops.

- Competitors must have access to an "xDSL capable" loop. An xDSL capable loop is a copper pair that is capable of transmitting a broadband signal. Such a loop must be free of loading coils, and must be configured to avoid the interference problems that degrade xDSL transmission. When the loop is configured through a remote terminal, "xDSL capable" refers to that part of the loop that runs from the customer premises to the xDSL

functional equipment at the remote terminal. Many of these loop components are already xDSL capable and will need no conditioning. When the loop is configured without a remote terminal, the entire loop from the customer premises to the central office must be xDSL capable.[103]

- Competitors need access to DSLAMS. For competitors to provide xDSL service, they must have a way to attach the xDSL capable loops they lease to DSLAM equipment. As we stressed at the outset, the Commission's proposal to allow ILECs to establish affiliates that do not have to lease DSLAMs to CLECs would have a devastating effect on competition in advanced services, and we urge the Commission not to take this step. But assuming that the DSLAM is owned by an ILEC affiliate that is under no obligation to lease it as an unbundled network element, it would become essential that CLECs have the right to collocate at the space where the copper loop terminates so that they can install their own DSLAM equipment. As future technologies are developed, it will also become possible for CLECs to install line cards providing DSLAM functionality directly in the ILEC's hardware. Commission regulations should make clear that CLECs have a right to

[103] While some ILECs have argued that they are under no obligation to condition loops to become xDSL capable because that would be to provide a "superior quality" loop than the ILECs currently deploy, the Commission correctly has concluded that at least where the ILEC itself provides xDSL service anywhere in its region, to provide loops capable of providing such service to its competitors is not to provide superior quality, but merely to provide the same quality it provides to itself. Further, the Commission already has defined a "universal service" loop as a loop capable of supporting advanced services.

install DSLAM equipment in any technically feasible manner either at the remote terminal or at the central office.

- In the case of the loop configured with a remote terminal, the CLEC must also have the right to lease as a network element a connection back from the DSLAM at the remote to the central office or by some other location.

3. xDSL Equipped Loops.

In some central offices there is no space for collocation. And where the copper loop terminates at a remote terminal, space constraints will frequently make collocation impossible. When the CLEC is not allowed to make use of the ILEC subsidiary's DSLAM, and when it has no other way to provide its own DSLAM, access to an "xDSL capable" loop is meaningless. Without its own DSLAM connected to the xDSL capable loop, the CLEC cannot use the loop to provide xDSL services.

Accordingly, for there to be any prospect for widespread competition for advanced services, it is not necessarily enough for the ILEC to provide CLECs with "xDSL capable" loops. The Commission must also require ILECs, directly or through their local services affiliates, to unbundle and lease "xDSL equipped" loops, that is, an element that includes the copper, the fiber and the electronics that make it possible for the loop to provide broadband services.

In defining an "xDSL equipped" loop, the Commission should be aware that xDSL technology is rapidly developing, and that any definition that does not take this into account will soon prove obsolete. The Commission should therefore define an "xDSL equipped loop"

generally to include the copper from the customer premises, in addition to the remote terminal and distribution back to the central office in the case of a DLC loop, along with the DSLAM, and any additional components that the ILEC needs to make available in order to deliver the data traffic to the CLEC including digital multiplexing equipment at both the remote terminal and the central office locations .[104]

Given current technology, the CLEC will be able to receive traffic from the ILEC only at the port side of its ATM switch, and so the CLEC leasing an "xDSL equipped loop" will also have to make use of the switching function and transport from a central office to the ATM switch, since most central offices today do not contain ATM switches. This is so because there is no technically feasible way today for a CLEC to have its own traffic segregated at the DSLAM or any other place closer to the customer premises. But this will not long be the case, because the technology is rapidly developing in two relevant respects.

First, ATM switches are becoming smaller, and less expensive; and vendors are developing more flexible and varied ATM switches that perform limited functions in efficient ways. Thus, in the near future it is likely that more and more central offices will have ATM switches that can direct traffic to the CLEC's network, and the forward-looking telephone

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[104] To the extent advanced services affiliates own DSLAMs are excused from the unbundling requirements of section 251(c)(3), CLECs would not be able under federal law to lease "xDSL equipped" loops, since they necessarily include DSLAMs. The Commission should nevertheless define xDSL equipped loops as a network element, which would be available under federal law whenever the ILEC itself owns the DSLAM, and might well be made available under state law.

network will use ATM switching functionality at large central offices.

Second, vendors are studying the development of DSLAM systems, and common cards for remote terminals that provide DSLAM functions, that will allow "multi-hosting" that enables CLECs to pick up their broadband traffic directly from the DSLAM. When these technologies are deployed, CLECs will be able to lease "xDSL equipped" loops that can be connected to the CLEC's own network either at the central office, the remote terminal, or other technically feasible points of interconnection. The Commission's regulations should make clear that as these new technologies become available, the ILECs must use them to provide efficient, reasonable, and technically feasible access to their competitors.

VIII. SPECIFIC UNBUNDLING REQUIREMENTS.

To limit to the greatest extent possible the delay and regulatory gamesmanship that has largely thwarted facilities-based competition to date, the Commission expressly determine the specific elements necessary to provide advanced services and which ILECs must provide pursuant to section 251(c)(3) of the Act. MCI WorldCom believes that the appropriate elements, at minimum, are as follows: xDSL-capable loops; xDSL capable DLC loops; xDSL equipped loops; xDSL equipped DLC loops; OSS; ATM switching facilities; xDSL electronics, including DSLAMs of any type and splitters; and dedicated and common transport. The Commission should also make clear that ILECS are obligated to provide the following subloop elements: feeder, distribution, and access to the remote terminal. Without such formal recognition of these network elements, CLECs may be forced to undergo lengthy and costly negotiation with the

ILECs and arbitration battles with state commissions.

The Commission seeks comment on whether to revisit its procompetitive definition of "proprietary" and "impair" as those terms are used in section 251(d)(2). There is no need to revisit these definitions. No fair understanding of the last three years would lead to the conclusion that there has been too much unbundling of the bottleneck network as a result of expansive FCC regulation. The problem has been precisely the opposite: today it is still not possible as a practical matter for CLECs to obtain network elements in a nondiscriminatory manner. Moreover, in the case of advanced services, the critical elements of the ILEC networks that need to be unbundled are the local loop and the DSLAM. Under almost any conceivable definition of "impair," the CLECs will be impaired in their ability to provide advanced services if they are deprived access to these elements. There is plainly no need to revisit these definitions in the context of this section 706 rulemaking.

The Commission also asks for comments about the technical feasibility of unbundling particular network elements used to provide advanced services.[105] As we indicated above, current technology does impose important restrictions. First, CLECs must obtain access to the DSLAM

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[105] We understand the Commission to be using the word "unbundle" in the unusual sense imposed on it by the Eighth Circuit -- elements capable of being separated -- and not in the sense it has traditionally used the term -- elements priced separately. If unbundled is given the reading proposed by the ILECs -- elements that are physically separated -- then an IDLC loop could not be "unbundled" from the switch port.

through an ATM switch, not directly to the DSLAM. Second, because DSLAMs will frequently be deployed at remote terminals where collocation is generally not possible (and because there is currently no other way for a CLEC to provision its own DSLAM functionality at the remote), a CLEC wishing to provide advanced services over a leased ILEC DLC loop likely will be forced to lease the entire xDSL equipped loop, including the DSLAM, transport to the ATM switch, and the switching function itself.

We make the following points about these technical limitations.

First, they provide ample reason for the Commission not to adopt its proposal to excuse the ILECs (through their affiliates) from their obligation to lease the essential components of their network. If the ILECs are excused from their unbundling obligations when they deploy DSLAMS at remote terminals through their affiliates, they will have won bottleneck control over the provision of advanced services, the very result the 1996 Act was designed to stop.

Second, as a result of these technical limitations the Commission should immediately order ILECs to lease as an unbundled network element to CLECs all of the functionality required to enable them to offer competitive advanced services.

Third, this is a rapidly evolving technology. It is far from clear that these limitations will exist in their current form in even one year from now, just as it is far from clear what further technical obstacles will arise as the technology to support advanced services becomes more mature. Any sensible regulation of this evolving technology must be transitional.

Finally, MCI WorldCom recommends that the following network elements be defined, in

addition to those elements that the Commission has already identified. (Many of these elements are described in more detail in the preceding section of the comments addressing the local loop). 1. Voice grade loop, with and without DLC; 2. xDSL Capable Loop; 3. xDSL Equipped Loop; 4. Subloop elements: feeder/distribution/remote terminal; 5. DSLAM; 6. Splitter; 7. ATM Switch; and 8. Shared interoffice data transport.

E. Resale Obligations

To the extent that advanced services are exchange access services, section 251(c)(3) resale obligations should apply. As the Commission noted, advanced services are not likely to be offered to carriers, but to end users. DSL and other advanced services targeted to end users are fundamentally different from exchange access services contemplated in the Local Competition Order.[106]

IX. LIMITED INTERLATA RELIEF

A. Incidental InterLATA Services

The Commission should not consider interLATA advanced telecommunications capabilities to be "incidental interLATA services" under section 271(b)(3), which permits BOCs and their affiliates to provide certain "incidental interLATA services" defined in section 271(g). Although section 271(g)(2) permits the BOCs and their affiliates to provide "two-way interactive video services or Internet services over dedicated facilities to or for elementary and secondary

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[106] NRPM, ¶ 189.

schools,"[107] the Commission must not take any action that would permit an ILEC to exercise monopoly power of its facilities or customers in any manner that prohibits access to unbundled local loops or other network facilities used in the provision of advanced services. Such anticompetitive actions on the part of an ILEC would simply prohibit competition and deter innovation. Rather, the Commission should ensure that competition exists among advanced capability providers and ISPs and require the ILECs to provide -- in a nondiscriminatory manner -- access to the local loop and the network elements necessary to provide advanced capabilities and services.

Indeed, section 271(h) states that "[t]he provisions of subsection (g) are intended to be narrowly construed."[108] Further, section 271(h) requires that the Commission "ensure that the provision of services authorized under subsection (g) by a [BOC] or its affiliate will not adversely affect. . . competition in any telecommunications market."[109] As MCI WorldCom noted in its comments to the Commission's NOI in the section 706 proceeding, ILECs have already begun to offer advanced capabilities and ISP services in an anticompetitive and discriminatory manner.[110] Until the BOCs open their local markets to competition, the

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[107] 47 U.S.C. § 271(g)(2).

[108] 47 U.S.C. § 271(h).

[109] Id.

[110] U S West's ADSL deployment activity in Oregon provides a recent example of the lengths to which ILECs will go in their efforts to discriminate against competitors at every level and in every service. On September 1, 1998, the Oregon Public Utility Commission ("PUC") delayed U S West's deployment of ADSL service after questions arose concerning U S West's efforts, or lack thereof, to outfit ISPs with the necessary high-speed telephone lines. See In the

Commission cannot consider granting them any form of interLATA relief. Any such relief would simply permit the BOCs to further monopolize data networks and advanced capabilities.

Finally, and importantly, the Commission is statutorily precluded from allowing the BOCs to provide interLATA "advanced" services (except to the extent that the services fall within section 271(g)(2)) unless and until the BOCs satisfy section 271.[111]

B. LATE Boundary Modification

Similarly, the Commission must not grant LATE boundary modification to the BOCs. While some BOCs will certainly argue that they cannot serve rural areas without regulatory relief in the form of LATE boundary modification, such an argument has no factual or legal merit. MCI WorldCom understands the need to supply rural areas with the same access to advanced capabilities as is available to other parts of the nation; however, LATE boundary modification is not necessary to provide rural areas with that access. Contrary to their arguments, the BOCs are not the only companies that are committed to serving rural consumers. If the Commission continues to enforce the procompetitive requirements of section 251 of the Act, rural America will have many options from which to choose their advanced services providers.

Further, the Commission has declared that BOCs should not be granted LATE boundary waivers "that could permit a 'piecemeal dismantling' of the prohibition on the BOCs' provision

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Matter of U S West Communications, Inc.'s Asynchronous Digital Subscriber Line Service, UT 144, Order No. 98-362, Or. P.U.C. (entered Sept. 1, 1998).

[111] 47 U.S.C. § 10(d).

of interLATA service."[112] The existing intrastate LATE boundaries, the Commission has stated, serve as a powerful incentive to the BOCs to open their local markets, and the BOCs must satisfy the substantive requirements of section 271 to receive interLATA relief.[113]

Moreover, the ILECs should not be granted LATE boundary modification that would permit them to carry packet-switched traffic across current LATE boundaries for the purpose of providing their subscribers with high-speed connections to nearby network access points. Section 271 of the Act prohibits BOC provision of in-region, interLATA service for either voice or data services -- the Act does not distinguish between the two services. Further, voice services can be transmitted using packet-switched technology, and because of the nature of packet switches, it is too difficult to ascertain when voice is being transmitted as well. Efforts to police the provision of services via packet switches -- data or voice -- would be virtually impossible.

The BOCs do not need LATE boundary relief. Indeed, the BOCs have a method by which they can gain complete relief from interLATA restrictions -- compliance with the statutory requirements enacted to open their local markets to competition and proof that their provision of in-region interLATA services is in the public interest. For any class of customers, the Commission is statutorily precluded from granting LATE modification if such change is the

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[112] See In the Matter of Petition for Declaratory Ruling Regarding U S West Petitions to Consolidate LAMAS in Minnesota and Arizona, N.D.-I-97-6, DA 97-767 (released April 21, 1997) at ¶ 27 (citing United States v. Western EEC. Co., Inc., No. 82-0192, slip op. at 3 n. 8 (D.D.C. May 18, 1983)).

[113] Id. at ¶ 28.

practical equivalent of forbearance from section 271 prior to full implementation of its requirements.

The Commission must continue to enforce the procompetitive provisions of the Act as they apply to all ILECs, including rural region providers. To encourage the deployment of advanced capabilities, the Commission should promote competition by enforcing the ILECs' obligations under section 251 -- interconnection, unbundled network elements, cost-based pricing and resale -- as they were written and enacted. The Commission must not permit the ILECs, including those that service rural areas, to monopolize data services and networks. MCI WorldCom is not asking that it receive something from the ILECs without proper compensation. To the contrary, MCI WorldCom would not object to paying cost-based rates that include a reasonable profit and that is appropriately adjusted for any risk. Under the Act, all ILECs be fully compensated for use of their facilities. Because the Act requires that prices be set at cost-based rates, competitors will be able to price their offerings to consumers based on efficient forward-looking cost of network elements, such as unbundled local loops, and thus will be able to drive prices to competitive levels.

Similarly, interLATA and LATE boundary relief is not necessary for schools and libraries to receive access to advanced capabilities. Indeed, to the extent these interLATA services involve the provision of two-way interactive video services or Internet services over dedicated facilities to or for elementary and secondary schools, BOCs are permitted to provide such

services now under section 271(g)(2) of the Act.[114] Further, CLECs will be able to provide advanced capabilities to schools and libraries in the same manner ILECs will provide such capabilities and services. The Commission must continue to promote competition and must not allow discriminatory actions that violate the Act to impede progress in the provision of these services.

If the Commission needs an argument to support the refusal of LATE boundary modification requests, it need only examine the recent LATE boundary modification request filed by Bell Atlantic-West Virginia.[115] The information provided by Bell Atlantic-West Virginia did not contain appropriate documentation to substantiate a LATE modification request. Indeed, as many commenters demonstrated in the proceeding, Bell Atlantic-West Virginia's arguments were and are based on factual misrepresentations. Not only is West Virginia not suffering from a bandwidth crisis; Bell Atlantic-West Virginia's request for LATE boundary modification is not a solution to any perceived problem. The Commission's grant of the requested relief would clearly violate section 271. The Commission must establish firm standards and rules with respect to LATE boundary modification, otherwise every BOC will file meritless petitions in instances where the BOC feels it can capitalize on some perceived delay in the deployment of advanced capabilities. Consumer demand for advanced capabilities will be met by many carriers. The

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[114] 47 U.S.C. § 251(g)(2).

[115] Emergency Request of Bell Atlantic-West Virginia for Authorization to End West Virginia's Bandwidth Crisis, CC Docket No. 98-11 (filed July 23, 1998).

ILECs are not the only carriers likely to serve areas that do not have high-speed network access points. Continued enforcement of the unbundling, pricing and resale obligations under section 251 is the best way to encourage the deployment of advanced capabilities.

C. Other Targeted InterLATA Relief

No Commission action in the form of interLATA relief for the BOCs is needed to facilitate the deployment of advanced telecommunications capabilities and services. Indeed, section 10(d) of the Act -- the section of the Act that deals with forbearance and its applicable limitations -- expressly prohibits the Commission from forbearing from the application of the requirements of sections 251(c) and 271. Further, any form of relief from the Act's procompetitive requirements would permit the ILECs to extend their monopolies to data services and networks.[116] However, the Commission can encourage the deployment of advanced capabilities by ensuring that the ILECs open their local markets to competition. To truly further the goals of section 706, the Commission must continue to enforce the unbundling, pricing and resale requirements of section 251(c) of the Act.

X. THIRD-PARTY ADMINISTRATION & THE GOALS OF SECTION 706

As the Commission and the telecommunications industry grapple with the many complex issues concerning advanced capabilities and services and how to meet the goals of section 706, MCI WorldCom proposes that the Commission examine the advantages presented by the creation

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[116] See NPRM at ¶ 72.

of an advanced capabilities third-party administrator funded by the members of the advanced services industry. The Commission, pursuant to section 256 of the Act, has the authority to establish procedures for Commission network planning by telecommunications carriers and to participate in the development by appropriate industry standards-setting organizations to promote access to public telecommunications networks used to provide telecommunications services.[117] To that end, MCI WorldCom believes that a properly designed third-party administrator, which shall include participation by industry players, manufacturers, Commission staff, and state commissions, will significantly assist the Commission and the industry in achieving the important goals of section 706 on an expedited basis.

A third-party administrator that oversees the development and deployment of advanced capabilities will assume many responsibilities to foster efficient and impartial policies and decisions to facilitate CLEC entry into the marketplace. Similar to the North American Numbering Council,[118] which the Commission created pursuant to the Federal Advisory Committee Act,[119] the advanced capabilities administrator should be a "single, non-government entity that is not closely identified with any particular industry segment."[120] The administrator, in keeping with the statutory language in section 706, should remain largely technology neutral as it

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[117] 47 U.S.C. § 256(b)(2).

[118] See In the Matter of Administration of the North American Numbering Plan, CC Docket No. 92-237, FCC 95-283, ("NANP Report and Order") (released July 13, 1995).

[119] Federal Advisory Committee Act, 5 U.S.C., App. (1988) ("FACA").

[120] See NANP Report and Order at ¶ 5.

develops broader policies that fairly and efficiently foster competition in the deployment of advanced capabilities.

While the Commission should create the third-party administrator using an industry model -- as opposed to a government or hybrid (government and industry) model -- the Commission will retain ultimate jurisdiction over advanced capabilities and section 706. For example, although the administrator will make policy determinations and provide enforcement mechanisms for dispute resolution, the Commission will establish the broader advanced capabilities and services policy objectives.

The industry-based third-party administrator will promote a fair, efficient and integrated approach to deploying advanced capabilities. In addition to developing policy and overseeing dispute resolution, this administrator, while possessing a wealth of industry knowledge concerning technology and innovation, will be responsible for ensuring that competitors and potential new entrants receive access to those network elements required to provide advanced capabilities and services. The third-party administrator will be responsible for managing the collocation processes and ensuring that all competitors receive proper consideration in the allocation of ILEC spectrum, loop assignment and collocation space. For example, if an ILEC makes a claim of space exhaustion, it would be required to make such a showing to the third-party administrator.[121] As noted above in the section addressing loop spectrum management,

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[121] MCI WorldCom acknowledges that section 251(c)(6) requires that the ILECs make such a showing to the state commissions. This requirement does not preclude an ILEC from

MCI WorldCom recognizes that many spectral compatibility requirements need to be developed for new technologies to interconnect with existing standardized technologies. A third-party administrator will provide much needed guidance to promote the standardization of technologies in a manner that encourages timely deployment of advanced services.

In addition, to the extent the ILECs might argue that the Commission's determinations in the instant NPRM require them to divulge sensitive business information to existing and potential competitors, the reporting requirements could be submitted to the third-party administrator. Requiring the ILECs and all other parties to submit their reporting to a third-party administrator makes sense when one considers the fact that the industry-based third-party administrator will be in the best position to anticipate any spectrum shortages and create solutions to address such problems. The whole notion of the third-party administrator is premised on the development of creative solutions that neutralize and deter anticompetitive behavior and unfair advantages by the incumbents in an effort to bring advanced capabilities to all Americans in a reasonable and timely manner.

As the party with ultimate oversight responsibility, the Commission should conduct an annual review to determine the effectiveness of and the continuing need for the third-party administrator. A third-party administrator with broad policymaking and dispute resolution

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raising the issue first with the administrator, and even if the administrator cannot resolve the issue to all parties' satisfaction, the administrator's view may assist the state commission in determining whether the ILEC made an adequate showing.

powers will assist the Commission, the telecommunications industry and the public in achieving the goals set forth in section 706.[122]

XI. CONCLUSION

MCI WorldCom believes that the Commission's efforts to ensure the deployment of advanced telecommunications capabilities and services should be commended. However, it also believes that the Commission's proposal to allow the ILECs to establish an data services affiliate is not only unlawful, but will only serve to create a means by which the ILECs can circumvent their section 251(c)(3) obligations. In the end, we believe that this proposed misstep, if adopted, will assist the ILECs in establishing a monopoly for data services which is contrary to the Commission's intended goal.

MCI WorldCom is encouraged, however, that the Commission has agreed to consider modification of its current rules in an effort to ensure that CLECs have a meaningful opportunity to compete in the advanced services market. We believe that proper implementation and enforcement of regulations pertaining to such areas as collocation, unbundled elements and spectrum management are critical to CLECs' ability to deploy advanced services. MCI WorldCom believes that the Commission must continue to demonstrate flexibility when contemplating its regulations and the implementation thereof in this ever changing and dynamic environment.

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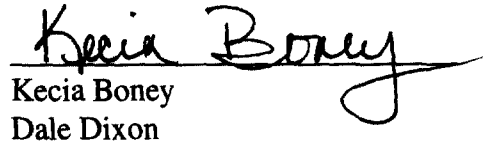
[122] 47 U.S.C. § 706(a).

Respectfully submitted,

MCI WORLDCOM, INC.



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CERTIFICATE OF SERVICE

I, Lonzena Rogers, do herby certify that on this twenty-fifth day of September, 1998, I served by first-class United States mail, postage paid, a true copy of the forgoeing Comments, upon the following:

Honorable William E. Kennard*
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